

DECISION

**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D.C. 20548

26378

FILE: B-212667**DATE:** October 3, 1983**MATTER OF:** Mike Vanebo**DIGEST:**

1. Allegation that National Forest Service policy of spraying roadsides with herbicides creates a health hazard for workers in the area is dismissed since protester was not awarded the contract and, therefore, is not an interested party to question whether contract performance has been made impossible by the Forest Service.
2. Allegation that contract clause will have an adverse impact on the competition for precommercial thinning contract is untimely since allegation relates to alleged defect which was apparent on the face of the solicitation and, therefore, should have been protested prior to bid opening.

Mike Vanebo protests alleged improprieties in solicitations Nos. R6-3-83-97s, R6-3-83-101s and R6-3-83-98s issued by the National Forest Service for precommercial thinning contracts in the Gifford Pinchot National Forest. With respect to solicitation No. R6-3-83-97s, Mr. Vanebo contends that the Forest Service should not permit roadsides adjacent to where the contractor is working to be sprayed with herbicides during or prior to the performance of the contract because it creates a substantial health hazard to the workers involved. With respect to solicitations Nos. R6-3-83-101s and R6-3-83-98s, Mr. Vanebo protests the inclusion of a contract clause which states that any qualified bid will be rejected as nonresponsive. Mr. Vanebo apparently believes that this clause will have an adverse impact on the competition for these contracts since small business contractors will have to bid only certain items rather than bidding the entire contract.

We dismiss the protests.

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Our Bid Protest Procedures require that a party be "interested" for its protest to be considered. 4 C.F.R. § 21.1(a) (1983). In determining whether a protester satisfies the interested party criterion we examine the degree to which the asserted interest is both established and direct. Save Columbia Council, Inc., B-211162, March 31, 1983, 83-1 CPD 338. However, Mr. Vanebo was not awarded the contract and has only asserted the general interest of the workers who may be involved. In these circumstances, Mr. Vanebo has not shown the requisite direct interest and, therefore, does not qualify as an interested party within the meaning of our Bid Protest Procedures.

With respect to solicitations Nos. R6-3-83-98s and R6-3-83-101s, Mr. Vanebo's complaint concerns a particular award clause in the solicitation. This allegation, however, relates to an alleged defect which was apparent on the face of the solicitation and, therefore, should have been protested prior to bid opening. 4 C.F.R. § 21.2(b)(1) (1983). Mr. Vanebo's protest was not filed with our Office until after the awards were made.

Accordingly, the protests are dismissed.

Harry R. Van Cleve
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Acting General Counsel